

## DEMETRIOU, DEL GUERCIO, SPRINGER &amp; FRANCIS, LLP

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 LESLIE M. DEL GUERCIO  
 TAMMY M. J. HONG

CHRIS G. DEMETRIOU (1915-1989)  
 RONALD J. DEL GUERCIO (RETIRED)  
 RICHARD A. DEL GUERCIO (RETIRED)

SENDER'S EMAIL ADDRESS  
 MFRANCIS@DDSFFIRM.COM

SENDER'S DIRECT LINE  
 (213) 624-8407 EXT. 144

January 24, 2014

***VIA E-MAIL [deschambault.lynda@epa.gov](mailto:deschambault.lynda@epa.gov)***  
***AND CERTIFIED MAIL -***  
***RETURN RECEIPT REQUESTED***

Ms. Lynda Deschambault  
 Remedial Project Manager  
 U.S. Environmental Protection Agency  
 75 Hawthorne Street, SFD-7-1  
 San Francisco, California 94105

***VIA E-MAIL [berninger.stephen@epa.gov](mailto:berninger.stephen@epa.gov)***  
***AND CERTIFIED MAIL -***  
***RETURN RECEIPT REQUESTED***

Mr. Stephen Berninger  
 Assistant Project Manager  
 U.S. Environmental Protection Agency  
 75 Hawthorne Street, ORC-3  
 San Francisco, California 94105

***VIA E-MAIL [olinger.keith@epa.gov](mailto:olinger.keith@epa.gov)***  
***AND CERTIFIED MAIL -***  
***RETURN RECEIPT REQUESTED***

Mr. Keith Olinger  
 U.S. Environmental Protection Agency  
 Superfund Division  
 75 Hawthorne Street, SFD-7-5  
 San Francisco, California 94105

Re: **Continental Heat Treating, Inc. Response to December 18, 2013 U.S. EPA  
 General Notice Letter and Request for Information for the Omega Chemical  
 Corporation Superfund Site in Los Angeles County, CA and property  
 located at 10643 Norwalk Boulevard, Santa Fe Springs, CA ("GNL")**

Dear Ms. Deschambault, Mr. Berninger and Mr. Olinger:

By way of introduction, I represent Continental Heat Treating, Inc. ("CHT") in connection with the U.S. EPA's GNL. This letter provides CHT's response to the GNL and it provides the information requested regarding the clean-up and investigation of the CHT facility located at 10643 Norwalk Boulevard in Santa Fe Springs, California ("CHT Site").

The GNL, indicates, among other things, that EPA settled with 171 parties in an Administrative Order on Consent ("AOC"), which was finalized on December 12, 2005. CHT was one of these 171 parties that settled pursuant to this 2005 AOC. In such settlement, CHT

Ms. Lynda Deschambault  
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Page 2

elected to settle its alleged liability with respect to the Omega Chemical Corporation Superfund Site ("Omega Site") pursuant to "Settlement Option A."

AOC Settlement Option A provided CHT and the other Option A Settling "Respondents" with a higher degree of settlement finality and certainty. Under Settlement Option A, the CHT payment included a premium of 100% that covered, among other risks, the risk that total response costs incurred or to be incurred at or in connection with the Omega Site by the United States, or by a private party, will exceed the estimated total response costs upon which CHT's payment was based. Under Settlement Option A, CHT received more protective covenants (including a covenant not to sue for natural resource damages, Federal Trustee's response costs, and the State of California's response costs), and the Settlement Option A covenants have more limited reservations.

Specifically, under AOC paragraph 27, the United States covenanted not to sue or take administrative action against any of the Option A Respondents, including CHT, pursuant to Section 106 or 107 of CERCLA, 42 U.S.C. §§ 9607 or 9607 relating to the Omega Site. These covenants are only limited by the applicable AOC Reservations of Rights that are set forth in AOC section XIII. (For your reference and convenience, a copy of the AOC and related documentation are enclosed.)

The costs and claims set forth in the GNL are good examples of other Omega Site risks that were resolved by the Settlement Option A.

Accordingly, CHT has already resolved its alleged liability with respect to the Omega Site. Thus, the United States', California's and any private party's claims in connection with Omega Site against CHT are barred pursuant to the AOC.

#### CHT Response to Information Request

The State of California Regional Water Quality Control Board ("RWQCB") is the lead agency directing, reviewing and approving the clean-up and investigation at the CHT Site.

In March 1997 a subsurface site investigation was performed at the CHT Site. This investigation produced a May 6, 1997 Site Assessment Report which was submitted to the RWQCB. The March 1997 investigation and a prior investigation identified certain volatile organic compounds ("VOCs"), including trichloroethylene ("TCE") and perchloroethylene ("PCE"), in the soil matrix and in soil gas samples collected in the area of the former PCE degreaser.

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Mr. Keith Olinger  
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Page 3

In January 2004, a soil vapor extraction test was performed near the former PCE degreaser to determine whether vapor extraction would be a viable clean-up option. Since this test suggested that vapor extraction was a viable option, a vapor extraction system was implemented. This vapor extraction system operated continuously from March 2, 2004 until September 21, 2004. Although the monitoring data showed significant reductions in the TCE and PCE levels, the concentrations of aliphatic hydrocarbons increased significantly, thereby interfering with the efficient operation of the vapor extraction system, which caused the system to be shut down. (It is believed that certain VOCs including the aliphatic hydrocarbons originated from an offsite source(s).)

Since 2010, CHT has proposed and performed, with RWQCB oversight and approval, a series of additional soil gas, soil matrix, groundwater and vapor intrusion investigations at the CHT Site. The reports associated with these investigations, among other documents, are available on the Geotracker website.<sup>1</sup> In addition to such reports, this Geotracker site also provides the RWQCB orders that have been issued to CHT in connection with such work performed and to be performed by CHT at the CHT site.

It is also understood that CHT's environmental consultant is providing the U.S. EPA contractor the periodic groundwater monitoring data collected from the CHT site.

#### CHT Primary Contacts

The primary CHT contacts to receive all future correspondence in connection with the Omega Site are:

James Stull, President  
Continental Heat Treating, Inc.  
10643 Norwalk Boulevard  
Santa Fe Springs, California 90670

and

---

<sup>1</sup> See [geotracker.waterboards.ca.gov/profile\\_report.asp?global\\_id=SLT43690688](http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=SLT43690688).

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Mr. Stephen Berninger  
Mr. Keith Olinger  
January 24, 2014  
Page 4

Michael A. Francis, Esq.  
Demetriou, Del Guercio, Springer & Francis, LLP  
700 South Flower Street  
Suite 2325  
Los Angeles, California 90017  
E-mail: mfrancis@ddsffirm.com  
Bus: (213) 624-8407  
Fax: (213) 624-0174

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael A. Francis", followed by a long horizontal line.

Michael A. Francis

MAF/blt

Enclosure

cc: Mr. James Stull (w/enc.) (Via E-mail)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

March 30, 2006

James C. Stull, President  
Continental Heat Treating, Inc.  
10643 South Norwalk Boulevard  
Santa Fe Springs, CA 90670

Re: Omega Chemical Superfund Site  
Confirmation of Receipt of De Minimis Settlement Payment;  
Continental Heat Treating, Inc.

Dear James C. Stull:

The United States Environmental Protection Agency, Region IX ("EPA") would like to take this opportunity to thank Continental Heat Treating, Inc. for participating in the De Minimis Settlement for the Omega Chemical Superfund Site ("Omega Site").

EPA has received the payment of Continental Heat Treating, Inc. as required in the De Minimis Settlement, also known as Administrative Order on Consent No. 2004-13. All benefits of the settlement, including contribution protection and covenants not to sue from the federal government, are in full effect. This letter does not address your payment to the State of California ("State") or the State covenant not to sue your company or organization in regard to the Omega Site.

We greatly appreciate this contribution toward the cost of protecting human health and the environment from the threats posed by the Omega Chemical Superfund Site. If you have any further questions or concerns about this settlement, please contact Thanne Cox at (415) 972-3908 or Linda Ketellapper at (415) 972-3104.

Sincerely,

A handwritten signature in dark ink, which appears to read "Frederick Schaffler", is written over a horizontal line.

Frederick Schaffler, Chief  
Site Cleanup Section 4  
Superfund Division

cc: Thanne Cox, US EPA  
Linda Ketellapper, US EPA





WESTERN FINANCIAL BANK

15750 Alton Parkway  
Irvine, CA 92618  
(800) 228-3659

060192519

January 9, 2006

PAYEE AND DESCRIPTION

\*\*\*\$86,697.09\*\*\*

\*\*\*EPA HAZARDOUS SUBSTANCE SUPERFUND\*\*\*

Eighty Six Thousand Six Hundred Ninety Seven Dollars and 09 cents

EPA Docket No. 2004-13

AMOUNT OF CHECK	DATE	CHECK NUMBER

CUSTOMER'S COPY

Continental Heat Treating, Inc.  
EPA Docket No. 2004-13  
omega Chemical

10643 Norwalk Blvd  
Santa Fe Springs, CA

060192519



WESTERN FINANCIAL BANK

CASHIER'S CHECK

15750 Alton Parkway  
Irvine, CA 92618  
(800) 228-3659

WF Pay Exactly **\$86,697.09**

01/09/2006 \*\*\*\$86,697.09\*\*\*

90-8575

3222

DATE

AMOUNT

PAY  
TO THE  
ORDER  
OF:

\*\*\*EPA HAZARDOUS SUBSTANCE SUPERFUND\*\*\*

*[Handwritten Signature]*  
*[Handwritten Signature]*

TWO SIGNATURES REQUIRED FOR AMOUNTS OF \$5000.00 OR MORE  
VOID AFTER 180 DAYS

EPA Region 9  
site spill ID 09BC

FX-4: CBI/Trade Secret





10643 S. Norwalk Blvd.  
Santa Fe Springs  
California 90670

CHECK NO. 045806

REQUEST

PAYABLE TO: Dept of Toxic

CHECK AMOUNT: 374.91

PURPOSE: Omega Chemical Supply

G/L ACCT. # 300223

G/L ACCT. # 300223

G/L ACCT. # 300223

G/L ACCT. # 300223

G/L ACCT. # 300223

G/L ACCT. # 300223

RECEIVED BY

WESTERN FINANCIAL BANK  
Commercial Banking Services  
15750 Alton Parkway  
Irvine, CA 92618  
90-8575/3222

OMEGA CHEMICAL 300223

045806

10643 S. Norwalk Blvd.  
Santa Fe Springs  
California 90670  
562-944-8808

CONTINENTAL  
HEAT TREATING, INC.

DATE

CONTROL NO.

AMOUNT

01/10/06

045806

\*\*374.91\*\*

\*\*THREE HUNDRED SEVENTY FOUR DOLLARS AND 91 CENTS\*\*

PAY  
TO THE  
ORDER OF

DEPARTMENT OF TOXIC SUBSTANCE CONTROL  
ACCOUNTING UNIT  
P.O. BOX 806  
SACRAMENTO, CA 95812-0806

NON NEGOTIABLE

FX-4: CBI/Trade Secret

## Notice of Payment to EPA

Liable Company Name: Continental Heat Treating, Inc.

EPA Payment Amount: \$ 86,697.09

**For Checks:**

docket # 2004-13  
Omega Chemical superfund  
EPA Region 9  
Site spill ID 09BC

Date of check 1/09/2006

Amount \$ 86,697.09

Check # 060192519 (attach copy of check)

**For Wire Transfers:**

Date of wire transfer \_\_\_\_\_

Amount \$ \_\_\_\_\_ (attach copy of wire transfer documents)

**Mail this form and copies of check/wire transfer documents to:**

Omega Chemical Site Team  
c/o Linda Ketellapper  
EPA Region 9  
75 Hawthorne Street  
Mail Code SFD-7-B  
San Francisco, California 94105  
ketellapper.linda@epa.gov





EQ 368223429 US

## ORIGIN (POSTAL SERVICE USE ONLY)

PO ZIP Code 90670	Day of Delivery <input checked="" type="checkbox"/> Next <input type="checkbox"/> 2nd <input type="checkbox"/> 2nd Del. Day	Postage \$ 14.40
Date Accepted 1/10/06	Scheduled Date of Delivery Month Day 1 11 6	Return Receipt Fee \$
Mo. Day Year 1 10 6	Scheduled Time of Delivery <input checked="" type="checkbox"/> Noon <input type="checkbox"/> 3 PM	COD Fee \$
Time Accepted 9:43 AM	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Insurance Fee \$
Flat Rate or Weight 1.90 lbs.	Int'l Alpha Country Code	Total Postage & Fees \$ 14.40
		Acceptance Emp. Initials VW

FROM: (PLEASE PRINT)

PHONE ( )

Continental Heat Treating  
10643 Norwalk Blvd  
Santa Fe Springs, CA 90670

## FOR PICKUP OR TRACKING

Visit [www.usps.com](http://www.usps.com)

Call 1-800-222-1811



UNITED STATES POSTAL SERVICE®

Customer Copy  
Label 11-B, March 2004

Post Office To Addressee

## DELIVERY (POSTAL USE ONLY)

Delivery Attempt	Time	<input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day			
Delivery Attempt	Time	<input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day			
Delivery Date	Time	<input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day			

## CUSTOMER USE ONLY

PAYMENT BY ACCOUNT  
Express Mail Corporate Acct. No.Federal Agency Acct. No. or  
Postal Service Acct. No.☐ WAIVER OF SIGNATURE (Domestic Mail Only)  
Additional merchandise insurance is void if  
customer requests waiver of signature.I wish delivery to be made without obtaining signature  
of addressee or addressee's agent (if delivery employee  
judges that article can be left in secure location) and I  
authorize that delivery employee's signature constitutes  
valid proof of delivery.☐ NO DELIVERY☐ Weekend☐ Holiday☐ Mailer Signature

TO: (PLEASE PRINT)

PHONE ( )

DEPT OF TOXIC SUBSTANCE CONTROL  
Accounting unit  
P.O. BOX 806  
Sacramento, CA 95812-0806  
ATTN: KAREN POON

ZIP + 4 (U.S. ADDRESSES ONLY. DO NOT USE FOR FOREIGN POSTAL CODES.)

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FOR INTERNATIONAL DESTINATIONS, WRITE COUNTRY NAME BELOW.



EQ 368223415 US

## ORIGIN (POSTAL SERVICE USE ONLY)

PO ZIP Code 90670	Day of Delivery <input checked="" type="checkbox"/> Next <input type="checkbox"/> 2nd <input type="checkbox"/> 2nd Del. Day	Postage \$ 14.40
Date Accepted 1/10/06	Scheduled Date of Delivery Month Day 1 11 6	Return Receipt Fee \$
Mo. Day Year 1 10 6	Scheduled Time of Delivery <input checked="" type="checkbox"/> Noon <input type="checkbox"/> 3 PM	COD Fee \$
Time Accepted 9:44 AM	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Insurance Fee \$
Flat Rate or Weight 1.90 lbs.	Int'l Alpha Country Code	Total Postage & Fees \$ 14.40
		Acceptance Emp. Initials VW

FROM: (PLEASE PRINT)

PHONE ( )

Continental Heat Treating  
10643 Norwalk Blvd.  
Santa Fe Springs CA 90670

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Mo. Day			
Delivery Date	Time	<input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day			

## CUSTOMER USE ONLY

PAYMENT BY ACCOUNT  
Express Mail Corporate Acct. No.Federal Agency Acct. No. or  
Postal Service Acct. No.☐ WAIVER OF SIGNATURE (Domestic Mail Only)  
Additional merchandise insurance is void if  
customer requests waiver of signature.I wish delivery to be made without obtaining signature  
of addressee or addressee's agent (if delivery employee  
judges that article can be left in secure location) and I  
authorize that delivery employee's signature constitutes  
valid proof of delivery.☐ NO DELIVERY☐ Weekend☐ Holiday☐ Mailer Signature

TO: (PLEASE PRINT)

PHONE ( )

EPA CINCINNATI Accounting Oper.  
Superfund Accounting  
RE: OMEGA Chemical Special Acct.  
P.O. BOX 371099M  
Pittsburgh, PA 15251

ZIP + 4 (U.S. ADDRESSES ONLY. DO NOT USE FOR FOREIGN POSTAL CODES.)

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FOR INTERNATIONAL DESTINATIONS, WRITE COUNTRY NAME BELOW.



EQ 368223429 US

## ORIGIN (POSTAL SERVICE USE ONLY)

PO ZIP Code 90670	Day of Delivery <input checked="" type="checkbox"/> Next <input type="checkbox"/> 2nd <input type="checkbox"/> 2nd Del. Day	Postage \$ 14.40
Date Accepted 1/10/06	Scheduled Date of Delivery Month 1 Day 10	Return Receipt Fee \$
Mo. Day Year 9/4/06	Scheduled Time of Delivery <input checked="" type="checkbox"/> Noon <input type="checkbox"/> 3 PM	COD Fee \$
Time Accepted 11 AM	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Insurance Fee \$
Flat Rate or Weight 1.90 lbs.	Int'l Alpha Country Code	Total Postage & Fees \$ 14.40
		Acceptance Emp. Initials VW

FROM: (PLEASE PRINT)

PHONE ( )

Continental Heat Treating  
10643 Norwalk Blvd  
Santa Fe Springs, CA 90670

## FOR PICKUP OR TRACKING

Visit [www.usps.com](http://www.usps.com)

Call 1-800-222-1811



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Label 11-B, March 2004

Post Office To Addressee

## DELIVERY (POSTAL USE ONLY)

Delivery Attempt	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
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Delivery Attempt	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day		
Delivery Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day		

## CUSTOMER USE ONLY

PAYMENT BY ACCOUNT  
Express Mail Corporate Acct. No.☐ WAIVER OF SIGNATURE (Domestic Mail Only)  
Additional merchandise insurance is void if customer requests waiver of signature.Federal Agency Acct. No. or  
Postal Service Acct. No.

I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.

## NO DELIVERY

☐ Weekend ☐ Holiday ☐ Mailer Signature

TO: (PLEASE PRINT)

PHONE ( )

DEPT OF TOXIC SUBSTANCE CONTROL  
Accounting unit  
P.O. BOX 806  
Sacramento, CA 95812-0806  
ATTN: KAREN POON

ZIP + 4 (U.S. ADDRESSES ONLY. DO NOT USE FOR FOREIGN POSTAL CODES.)

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FOR INTERNATIONAL DESTINATIONS, WRITE COUNTRY NAME BELOW.



EQ 368223415 US

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Mo. Day Year 9/4/06	Scheduled Time of Delivery <input checked="" type="checkbox"/> Noon <input type="checkbox"/> 3 PM	COD Fee \$
Time Accepted 11 AM	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Insurance Fee \$
Flat Rate or Weight 1.90 lbs.	Int'l Alpha Country Code	Total Postage & Fees \$ 14.40
		Acceptance Emp. Initials VW

FROM: (PLEASE PRINT)

PHONE ( )

Continental Heat Treating  
10643 Norwalk Blvd.  
Santa Fe Springs CA 90670

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Label 11-B, March 2004

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Mo. Day		
Delivery Attempt	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day		
Delivery Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day		

## CUSTOMER USE ONLY

PAYMENT BY ACCOUNT  
Express Mail Corporate Acct. No.☐ WAIVER OF SIGNATURE (Domestic Mail Only)  
Additional merchandise insurance is void if customer requests waiver of signature.Federal Agency Acct. No. or  
Postal Service Acct. No.

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## NO DELIVERY

☐ Weekend ☐ Holiday ☐ Mailer Signature

TO: (PLEASE PRINT)

PHONE ( )

EPA CINCINNATI Accounting Oper.  
Superfund Accounting  
RE: ONIEGA Chemical Special Acct.  
P.O. BOX 371099M  
Pittsburgh, PA 15251

ZIP + 4 (U.S. ADDRESSES ONLY. DO NOT USE FOR FOREIGN POSTAL CODES.)

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FOR INTERNATIONAL DESTINATIONS, WRITE COUNTRY NAME BELOW.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

December 12, 2005

James C. Stull, President  
Continental Heat Treating, Inc.  
10643 South Norwalk Boulevard  
Santa Fe Springs, CA 90670

Re: Omega Chemical Superfund Site  
Notice of Entry of De Minimis Settlement;  
Continental Heat Treating, Inc.

Dear James C. Stull:

The U.S. Environmental Protection Agency, Region IX ("EPA") is pleased to inform you that the De Minimis settlement for the Omega Chemical Superfund Site (the "Omega Site"), Administrative Order on Consent No. 2004-13 ("De Minimis AOC"), has been fully approved and is now in effect. A final copy of the De Minimis AOC and EPA's response to public comments are enclosed. The Agency appreciates your participation in this settlement.

In accordance with the terms of the settlement, your settlement payment is due within thirty (30) days of your receipt of this letter unless you are an ability-to-pay settlor making installment payments as set forth in Appendix A-1 of the De Minimis AOC. Companies with installment payments are obligated to make future installment payments as scheduled, as the United States will not provide billing statements or advance reminders. For all settlers, the amount of your payment is set forth across from your company or organization's name in Appendices A, A-1 or B. Please note that failure to make full and timely payment of the settlement amount would be a breach of the settlement agreement and void its protections to your company or organization.

**All companies listed in Appendix A or A-1 must make two separate payments, one payment to EPA and one payment to the State of California (DTSC). Companies listed in Appendix B only make one payment to EPA.**

**Payments to EPA should be made in the following manner:**

Each payment to EPA shall be made by wire transfer or certified or cashiers check made payable to "EPA Hazardous Substance Superfund." Each wire transfer document, check, or letter accompanying each check, shall identify the name and address of the party making payment as shown in Appendix A, A-1 or B, the Omega Chemical Superfund Site name, EPA Region 9, Site Spill ID Number 09BC, and the EPA docket number for this action (No. 2004-13).

86,697.09

Send certified or cashier's checks to the following address:

EPA Cincinnati Accounting Operations  
Superfund Accounting  
RE: Omega Chemical Special Account  
P.O. BOX 371099M  
Pittsburgh, PA 15251

For Wire Transfers use the following:

Mellon Bank  
ABA 043000261  
Account 9109125  
22 Morrow Drive  
Pittsburgh PA 15235

It is your responsibility to ensure timely receipt of EPA's payment. At the time of payment to EPA, each Respondent shall send the enclosed notice that such payment has been made and a copy of your electronic payment documentation or your check to EPA at the following address:

Omega Chemical Site Team  
c/o Linda Ketellapper  
EPA Region 9  
75 Hawthorne Street  
Mail Code SFD-7-B  
San Francisco, California 94105  
[ketellapper.linda@epa.gov](mailto:ketellapper.linda@epa.gov)

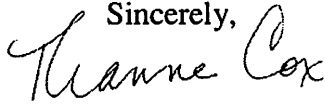
**Payments to the State of California should be made in the following manner:**

Each payment to the State of California, Department of Toxic Substances Control shall be made by check made payable to the "Department of Toxic Substances Control". Each check, or letter accompanying each check, shall identify the name and address of the party making the payment, and "Omega Chemical 300223". The check shall be sent to:

Department of Toxic Substances Control  
Accounting Unit  
P.O. Box 806  
Sacramento CA 95812-0806  
Attn: Karen Poon

Once again, the Agency appreciates your participation. The settlement funds paid by you will provide a great benefit to the public by directly funding cleanup efforts at the Omega Chemical Site to protect human health and the environment. If you have questions regarding the terms of the AOC, please contact me at (415) 972-3908 or by email at [cox.elizabeth@epa.gov](mailto:cox.elizabeth@epa.gov). If you have questions regarding the payment process, contact Linda Ketellapper at (415) 972-3104.

Sincerely,



Thanne Cox  
Assistant Regional Counsel

Encl.: Notice of Payment to EPA Form  
Final AOC 2004 -13  
EPA Response to Comments and Notice of Final Agreement

cc: Linda Ketellapper, US EPA  
Chris Lichens, US EPA  
Bonnie Wolstoncroft, CA DTSC  
Karl Fingerhood, US DOJ



## ADMINISTRATIVE ORDER ON CONSENT

## I. JURISDICTION

1. This Administrative Order on Consent ("Consent Order") is issued pursuant to the authority vested in the President of the United States by Section 122(g)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9622(g)(4), to reach settlements in actions under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607. The authority vested in the President has been delegated to the Administrator of the United States Environmental Protection Agency ("EPA") by Executive Order 12580, 52 Fed. Reg. 2923 (Jan. 29, 1987), and further delegated to the Regional Administrators of the EPA by Delegation No. 14-14-E (issued May 11, 1994, amended by memorandum May 19, 1995). Within EPA Region IX, this authority has been delegated to the Superfund Division Director by a Regional Order 1290.21A entitled "De Minimis Settlements," dated November 23, 1998. The State of California ("State") has jurisdiction over the matters set forth herein pursuant to the California Hazardous Substance Account Act, California Health and Safety Code Section 25300, *et seq.*, ("the California Hazardous Substance Account Act") and Section 121(f) of CERCLA, 42 U.S.C. § 9621(f). The State has claims against the Settling Parties pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a).

2. This Consent Order is also entered into pursuant to the authority of the United States on behalf of the United States Department of Interior ("DOI") which, by Executive Order 12580, as amended by Executive Order 13016, 61 Fed. Reg. 45872 (August 30, 1996), has been delegated with the authority vested in the President as a Federal Trustee for natural resources that may have been, or in the future may be, injured by the release of hazardous substances at or from the Omega Chemical Superfund Site ("Omega Site" or "the Site"), as defined herein.

3. This Consent Order is issued to the persons, corporations, or other entities identified in Appendices A and B ("Respondents"). Each Respondent agrees to undertake all actions required by this Consent Order. Each Respondent further consents to and will not contest the EPA's or the State's jurisdiction to issue this Consent Order or to implement or enforce its terms.

4. The EPA and the State and the Respondents agree that the actions undertaken by the Respondents in accordance with this Consent Order do not constitute an admission of any liability by any Respondent. The Respondents do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Consent Order, the validity of the Statement of Facts contained in Section IV or the Determinations contained in Section V of this Consent Order.

## II. STATEMENT OF PURPOSE

5. By entering into this Consent Order, the mutual objectives of the Parties are:

a. to reach a final settlement among the Parties pursuant to Section 122(g) of CERCLA, 42 U.S.C. § 9622(g), that allows Option A Respondents, identified in Appendix A, to make a cash payment, including a premium, to resolve their alleged civil liability under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, and the California Hazardous Substances Account Act, California Health and Safety Code Section 25300, et seq., for injunctive relief with regard to the Site and for response costs incurred and to be incurred at or in connection with the Site, thereby reducing litigation relating to the Site;

b. to reach a final settlement among the Parties pursuant to Section 122(g) of CERCLA, 42 U.S.C. § 9622(g), that allows Option B Respondents, identified in Appendix B, to make a cash payment, including a premium, to resolve their alleged civil liability under Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for injunctive relief with regard to the Site and for response costs incurred and to be incurred at or in connection with the Site, thereby reducing litigation relating to the Site;

c. to simplify the remaining administrative and judicial enforcement activities concerning the Site by eliminating a substantial number of potentially responsible parties from further involvement at the Site;

d. to obtain settlement with these Respondents for their fair share of response costs incurred and to be incurred at or in connection with the Site by the Hazardous Substance Superfund and by other persons, and to provide for full and complete contribution protection for Respondents with regard to the Site, pursuant to Sections 113(f)(2) and 122(g)(5) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(g)(5); and

e. to avoid difficult and prolonged litigation by allowing Respondents which demonstrate an inability or limited ability to pay response costs ("Ability to Pay Respondents" or "ATP Respondents") to make a cash payment to address their alleged civil liability for the Site, pursuant to Section 122(g)(7) of CERCLA, 42 U.S.C. § 9622(g)(7).

## III. DEFINITIONS

6. Unless otherwise expressly provided herein, terms used in this Consent Order that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in the statute or regulations. Whenever the terms listed below are used in this Consent Order, including the attached appendices, the following definitions shall apply:

a. "Ability to Pay Respondents" or "ATP Respondents" shall mean those Respondents which demonstrate an inability or limited ability to pay response costs, listed in Appendix A-1.

b. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.

c. "Consent Order" or "Order" shall mean this Administrative Order on Consent. This Consent Order shall include all appendices attached hereto, except to the extent of any conflict, in which case this Consent Order shall control over such appendices.

d. "Day" shall mean a calendar day. In computing any period of time under this Consent Order, where the last day would fall on a Saturday, Sunday or federal holiday, the period shall run until the close of business of the next working day.

e. "EPA" shall mean the United States Environmental Protection Agency and any successor departments, agencies or instrumentalities.

f. "EPA Hazardous Substance Superfund" shall mean the Hazardous Substances Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

g. "Interest" shall mean interest at the rate specified for interest on investments of the Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

h. "Option A Respondents" shall mean those Respondents listed in Appendix A, including ATP Respondents unless otherwise indicated in this Consent Order.

i. "Option B Respondents" shall mean those Respondents listed in Appendix B.

j. "Paragraph" shall mean a portion of this Consent Order identified by an Arabic numeral.

k. "Parties" shall mean the EPA, DOI, the Respondents, and the State.

l. "Respondents" shall mean those persons, corporations, or other entities listed in Appendices A and B.

m. "Response costs" shall mean all costs of "response" as that term is defined by Section 101(25) of CERCLA, 42 U.S.C. § 9601(25).

n. "Section" shall mean a portion of this Consent Order identified by a roman numeral, except as otherwise used with reference to a section of a statute.

o. "Site" shall mean the Omega Chemical Superfund Site located at 12504 and 12512 East Whittier Boulevard, Whittier, California, Los Angeles County, California, and generally shown on the maps attached as Appendix C.

p. "State" shall mean the California Department of Toxic Substances Control ("DTSC"), the successor entity to the California Department of Health Services, and any successor departments or agencies, and on behalf of the California Hazardous Substance Account and any successor accounts.

q. "United States" shall mean the United States of America, its agencies, departments, and instrumentalities.

#### **IV. STATEMENT OF FACTS**

7. The Omega Chemical Corporation facility is located at 12504 and 12512 East Whittier Boulevard, Whittier, California, Los Angeles County, California. From approximately 1976 to 1991, the Omega Chemical Corporation and Omega Refrigerant Reclamation Company operated the facility as a used solvent and refrigerant recycling, reformulation, and treatment facility. This operation primarily handled chlorinated solvents such as degreasing and dry-cleaning chemicals and refrigerants.

8. Hazardous substances have been or are threatened to be released at or from the Site. Hazardous substances at the Site include, but are not limited to: Tetrachloroethene ("PCE"); Trichloroethene ("TCE"); Freon 11; Freon 113; 1,1-Dichloroethene; Cis-1,2-Dichloroethene; Trans-1,2-Dichloroethene; 1,1-Dichloroethane; 1,2-Dichloroethane; 1,1,1-Trichloroethane; 1,1,2,2-Tetrachloroethane; Carbon Tetrachloride; Methylene Chloride; Vinyl Chloride; Benzene; MTBE; Aluminum; Chromium; Selenium; Perchlorate; Chloroform; Acetone; Chlordane; Lindane; BHC (alpha, beta gamma combined); and Heptachlor Epoxide. (See, 40 C.F.R. § 302.4) Hazardous substances found at the Site are co-mingled.

9. As a result of the release or threatened release of hazardous substances, EPA has undertaken response actions at or in connection with the Site under Section 104 of CERCLA, 42 U.S.C. § 9604, and will undertake response actions in the future.

a. On August 27, 1993, EPA conducted a Site Assessment at the request of the State of California Department of Toxic Substances Control ("DTSC"). During this assessment, EPA observed more than 2,900 fifty-five gallon drums of unprocessed hazardous wastes. At that time, DTSC was conducting negotiations with the Site owner and operator, Omega Chemical Corporation ("OCC"), to remove or otherwise address these wastes. An agreement was not reached by the parties.

b. In January 1995, EPA conducted a second Site Assessment at the request of DTSC and observed approximately 3,000 drums in various stages of deterioration, many of which were corroded and leaking. Leaking substances were migrating to other portions of the



Site and off Site. These substances presented an imminent and substantial threat to human health and environment.

c. On May 3, 1995, EPA signed a time critical Removal Action Memorandum authorizing a removal action involving the following response actions: a) securing the Site; b) sampling and categorizing hazardous materials; c) removing hazardous substances and grossly contaminated equipment, structures, and debris; d) sampling surface and subsurface soils and groundwater to determine the nature and extent of contamination; e) disposing, stabilizing or treating grossly contaminated soils; and f) grading, capping, and fencing areas where contamination remained in the soil.

d. On May 9, 1995, EPA issued Unilateral Administrative Order 95-15 ("the 1995 UAO") to certain Potentially Responsible Parties ("PRPs") to perform work described by the Action Memorandum. These parties each arranged for the disposal of hazardous substances at the Site in an amount equal to or greater than ten tons. These parties established a group identified as the Omega PRP Organized Group ("OPOG").

e. In September 1998, EPA proposed the Site for listing on the National Priorities List ("NPL"). On January 19, 1999, pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed the Omega Site on the NPL, as set forth at 40 C.F.R. Part 300, Appendix B. (See, 64 Fed. Reg. 2950). DTSC provided EPA local agency support and represented the State regarding the Site investigation issues.

f. To expedite Site characterization and response activities, EPA divided the Site into operable units. The operable units for the Site include Operable Unit One which addresses work to be performed within the Phase 1a Area and Operable Unit Two which addresses work to be performed downgradient from Phase 1a Area. The Phase 1a Area is the area of soil and groundwater contamination associated with the Omega Property and extending downgradient approximately 100 feet southwest of Putnam Street, Whittier, California. Operable Unit Two addresses all other areas where contamination associated with the Omega facility has come to be located, specifically the groundwater plume which extends downgradient of the Phase 1a Area.

g. On April 1, 1999, EPA issued Special Notice Letters to OPOG members and commenced negotiations of a Partial Consent Decree requiring response actions including a non-time critical removal action and a Remedial Investigation and Feasibility Study ("RI/FS") addressing soils located within the Phase 1a Area, also known as Operable Unit One. On February 23, 2000, the Partial Consent Decree, Docket No. 00-12741-TJH, signed by approximately 120 parties and EPA, was entered by the United States District Court for the Central District of California.

h. On January 5, 2004, EPA issued Unilateral Administrative Order No. 9-2004-0004 ("the 2004 UAO") to twenty (20) parties to perform remedial investigative work at the Site. On July 2, 2004, EPA issued an Amended Unilateral Administrative Order No. 9-2004-0004 ("the 2004 Amended UAO") to these parties to perform similar investigative work to

characterize the groundwater plume within Operable Unit Two at the Site. These parties were not signatories to the Partial Consent Decree entered on February 23, 2000. The Respondents of the 2004 Amended UAO arranged for the disposal of hazardous substances at the Site in an amount equal to or greater than ten tons.

i. Since February 2002, EPA has installed and sampled groundwater monitoring wells downgradient of the Phase 1a Area as part of the Operable Unit Two investigation. EPA has gathered data during quarterly groundwater sampling which identifies a downgradient groundwater plume existing as a result of releases of hazardous substances at the Site. After one year of sampling, EPA established that a groundwater plume underneath and downgradient from the Site facility contains the hazardous substances found at the Site facility including, but not limited to, PCE, TCE, Freon 11, and Freon 113. Additional monitoring and sampling is necessary to fully characterize the groundwater plume. This sampling and data will be incorporated into a RI/FS for the Site, pursuant to CERCLA and the NCP, 40 C.F.R. Part 300.

10. In performing these response actions, EPA has incurred and will continue to incur response costs at or in connection with the Site.

11. Each Respondent listed in Appendices A and B arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of one or more hazardous substances at the Site.

12. Each Respondent listed in Appendices A and B contributed less than 10 tons of materials containing hazardous substances, the toxic or other hazardous effects of which are not significantly greater than any other hazardous substances at the Omega Site. The volume of materials attributed by the EPA to each Respondent is identified in Appendices A and B.

13. EPA has reviewed the financial information submitted by ATP Respondents to determine whether ATP Respondents are financially able to pay response costs incurred and to be incurred at the Site. Based upon this financial information, EPA has determined that ATP Respondents have limited financial ability to pay for response costs incurred and to be incurred at the Site.

14. The EPA estimates that the total of the response costs incurred and to be incurred at or in connection with the Site by the U.S. EPA Hazardous Substance Superfund, the State of California, and by private parties is not less than \$101.5 million. The payment each Respondent is required to make pursuant to this Consent Order, which is identified for each Respondent in Appendices A and B, is a minor portion of this total amount.

**V. DETERMINATIONS**

15. Based upon the Findings of Fact set forth above and on the administrative record for this Site, EPA has made the following determinations:

a. The Omega Chemical Site is a "facility" as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

b. Each Respondent is a "person" as that term is defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

c. Each Respondent is a "potentially responsible party" within the meaning of Section 122(g)(1) of CERCLA, 42 U.S.C. § 9622(g)(1).

d. There has been an actual or threatened "release" of a "hazardous substance" from the Site as those terms are defined in Section 101(22) and (14) of CERCLA, 42 U.S.C. § 9601(22) and (14).

e. The actual or threatened "release" caused the incurrence of response costs.

f. Prompt settlement with each Respondent is practicable and in the public interest within the meaning of Section 122(g)(1) of CERCLA, 42 U.S.C. § 9622(g)(1).

g. As to each Respondent, this Consent Order involves only a minor portion of the response costs at the Site within the meaning of Section 122(g)(1) of CERCLA, 42 U.S.C. § 9622(g)(1).

h. The amount of hazardous substances contributed to the Site by each Respondent and the toxic or other hazardous effects of the hazardous substances contributed to the Site by each Respondent are minimal in comparison to other hazardous substances at the Site within the meaning of Section 122(g)(1)(A) of CERCLA, 42 U.S.C. § 9622(g)(1)(A).

**VI. SETTLEMENT OPTIONS**

16. As to the claims of the United States and the State, Respondents may choose between Settlement Options A and B as set forth in this Section and further described in Sections XI, XII, XIII, and XV. Except where this Consent Order specifies particular Sections or Paragraphs as pertaining to Settlement Option A or B, in which case those provisions apply only to Respondents that elect Settlement Option A or B, respectively, all other terms of this Consent Order apply equally to all Respondents, regardless of which settlement option they choose.

## 17. Description of Options

a. As between the two settlement options, Settlement Option A is designed to provide Respondents with a higher degree of finality and certainty. Under Settlement Option A, the payment includes a premium of 100%, which covers, among other risks, the risk that total response costs incurred or to be incurred at or in connection with the Site by the United States, or by any private party, will exceed the estimated total response costs upon which Respondents' payments are based. Pursuant to Sections XI and XIII, Respondents that choose Settlement Option A will receive more protective covenants (including a covenant not to sue for natural resource damages, Federal Trustees' response costs and the State's response costs), and these Settlement Option A covenants have more limited reservations.

b. Under Settlement Option B, which offers less finality than Settlement Option A, the premium is 50%. Pursuant to Sections XI, XII, and XIII, Respondents that choose Settlement Option B do not receive a covenant not to sue for natural resource damages, Federal Trustees' response costs, or the State's response costs and risk liability for additional future payments.

## 18. Calculation of Payment

a. Each Respondent's payment is based on its share, by weight, of the total waste disposed of at the Site multiplied by the EPA's estimated total response costs incurred or to be incurred at or in connection with the Site.

b. EPA's Site-wide cost estimate is \$101.5 million that has been or will be incurred for response actions at the Site. This figure includes an estimated \$89.2 million in costs that will be incurred in the future for response actions at the Site and past response costs of \$12.3 million. The payment amounts for each Respondent are set forth in Appendices A and B.

c. Each payment amount by Respondents includes a premium to cover the risks and uncertainties associated with this Consent Order. The premium (100% for Settlement Option A, 50% for Settlement Option B) is applied to each Respondent's volumetric share of all estimated future response costs but is not applied to the past response costs. Past response costs of \$12.3 million were incurred by the EPA and major waste contributor PRPs performing work at the Site prior to January 2004. Under Settlement Option A or Settlement Option B, the premium is not assessed against this \$12.3 million. Under Settlement Option A and Settlement Option B, the premium is applied to costs incurred and to be incurred at the Site after January 2004. This amount totals \$89.2 million.

d. Each Option A Respondent's payment amount for this Consent Order is set forth in the appropriate column opposite that Option A Respondent's name in Appendix A. Each Option B Respondent's payment amount for this Consent Order is set forth in the appropriate column opposite that Option B Respondent's name in Appendix B.

**VII. ORDER**

19. Based upon the administrative record for the Site and the Statement of Facts and the Determinations set forth above, and in consideration of the promises and covenants set forth herein, it is hereby AGREED AND ORDERED as follows:

**VIII. PAYMENT**

20. Within thirty (30) days of the effective date of this Consent Order, each Respondent shall pay the amount opposite its name in Appendices A and B to this Consent Order to the respective government entity identified, in accordance with the provisions of this Section.

21. Each Respondent's payment includes an amount for: a) past response costs at or in connection with the Site; b) estimated future response costs to be incurred at or in connection with the Site; and c) a premium to cover the risks and uncertainties associated with this settlement, including, but not limited to, the risk that the total amount of response costs incurred or to be incurred at or in connection with implementing the remedies selected for the Site by EPA or any private party will exceed the estimate of total response costs upon which each Respondent's payment is based.

22. Each payment to EPA shall be made by certified or cashier's check made payable to "EPA Hazardous Substance Superfund." Each check, or letter accompanying each check, shall identify the name and address of the party making payment, the Site name, the EPA Region and Site Spill ID Number 09BC, and the EPA docket number for this action, and shall be sent to:

EPA Cincinnati Accounting Operations  
Superfund Accounting  
RE: Omega Chemical Special Account  
P.O. BOX 371099M  
Pittsburgh, PA 15251

The total amount to be paid by Respondents to EPA pursuant to Paragraphs 20 and 21 shall be deposited by EPA in the Omega Chemical Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

Each payment to the State of California, Department of Toxic Substances Control shall be made by check made payable to the "Department of Toxic Substances Control". Each check, or letter accompanying each check, shall identify the name and address of the party making the payment, and "Omega Chemical 300223". The check shall be sent to:



Department of Toxic Substances Control  
Accounting Unit  
P.O. Box 806  
Sacramento CA 95812-0806

23. At the time of payment to EPA, each Respondent shall send notice that such payment has been made to:

Omega Chemical Site Team  
c/o Linda Ketellapper  
EPA Region 9  
75 Hawthorne Street  
Mail Code SFD-7-B  
San Francisco, California 94105  
ketellapper.linda@epa.gov

**IX. FAILURE TO MAKE PAYMENT**

24. If any Respondent fails to make a full payment within thirty days of the effective date of this Consent Order as required by Section VIII, that Respondent shall pay Interest on the unpaid balance, commencing on the effective date of this Consent Order and accruing through the date of the payment. In addition, if any Respondent fails to make a timely and full payment, the United States or the State may, in addition to any other available remedies or sanctions, bring an action against that Respondent seeking injunctive relief to compel payment and/or seeking civil penalties under Section 122(l) of CERCLA, 42 U.S.C. § 9622(l), for failure to make timely payment.

**X. CERTIFICATIONS OF EACH RESPONDENT**

25. By signing this Consent Order, each Respondent individually certifies that, to the best of its knowledge and belief, it:

a. has conducted a thorough, comprehensive, good faith search for documents, and has fully and accurately disclosed to EPA, all information currently in its possession, or in the possession of its officers, directors, employees, contractors or agents, which relate in any way to the ownership, operation, or control of the Site, or to the ownership, possession, generation, treatment, transportation, storage or disposal of a hazardous substance, pollutant, or contamination at or in connection with the Site;

b. has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents, or other information relating to its potential liability regarding the Site after notification of potential liability or the filing of a suit against it regarding the Site; and

c. has and will fully comply with any and all of the EPA requests for information regarding the Site pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e).

26. Each ATP Respondent hereby certifies that, to the best of its knowledge and belief, after thorough inquiry, it has:

a. fully complied with any and all EPA requests for documents or information regarding the Site and ATP Respondent's financial circumstances pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e);

b. submitted to EPA financial information that fairly, accurately, and materially sets forth its financial circumstances, and that those circumstances have not materially changed between the time the financial information was submitted to EPA and the time ATP Respondent executes this Consent Order; and

c. fully disclosed the existence of any insurance policies that may cover claims relating to cleanup of the Site.

#### **XI. COVENANT NOT TO SUE BY UNITED STATES**

27. In consideration of the payments that will be made by Respondents under the terms of this Consent Order, and except as specifically provided in Paragraph 29 and Section XIII, the United States covenants not to sue or take administrative action against any of the Option A Respondents pursuant to Sections 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 or 9607; and the United States covenants not to sue or take administrative action against any of the Option B Respondents pursuant to Sections 106 or 107(a) of CERCLA, 42 U.S.C. §§ 9606 or 9607, relating to the Site.

28. With respect to present and future liability, this covenant not to sue shall take effect for each Respondent upon receipt of that Respondent's payment as required by Section VII. With respect to each Respondent, individually, this covenant not to sue is conditioned upon: a) the satisfactory performance by Respondent of all obligations under this Consent Order; and b) the veracity of the information provided to EPA by Respondent relating to Respondent's involvement with the Site. This covenant not to sue extends only to Respondents and does not extend to any other person.

#### **29. Reservation for Increased Costs of Response Actions**

a. In February 2004, an estimate of the total cost of response actions at the Site was developed for past and future response actions, enforcement activities, and other purposes ("2004 Cost Estimate"). The 2004 Cost Estimate totals \$101.5 million.

b. In its unreviewable discretion, EPA may seek to have Option B Respondents pay their volumetric share of any increase in response costs if:

(i) within two years after the Record of Decision ("ROD") for the Site is signed and EPA has revised or approved the revision of the cost estimate for all response actions taken or to be taken at the Site ("ROD Cost Estimate") and the ROD Cost Estimate exceeds \$146 million; and

(ii) based on actual expenditures at the Site and expenditures reasonably anticipated in accordance with the ROD, any other response action decision documents, and the revised cost estimate, EPA, in its unreviewable discretion, determines that seeking additional funds or work from Option B Respondents is necessary to finance future work.

c. In its unreviewable discretion, EPA may seek to have Option B Respondents pay their volumetric share of any increase in response costs if:

(i) within two years after the certification of completion of the remedial action or before January 1, 2013, whichever occurs first, the total Site costs incurred exceed \$146 million; and

(ii) based on actual expenditures at the Site and expenditures reasonably anticipated in accordance with the ROD, any other response action decision documents, and the revised cost estimate, EPA, in its unreviewable discretion, determines that seeking additional funds or work from Option B Respondents is necessary to finance future work.

d. From the effective date of this Consent Order until eighteen (18) months after the latest date upon which final payment would be due if a demand is made under subparagraphs b or c above, or on January 1, 2015, whichever occurs later in time, each Option B Respondent shall notify the Omega Chemical Site Team of any change in its address, ownership, political configuration, or corporate or other legal status. Such notice shall be sent to the Omega Chemical Site Team address provided in Paragraph 23 above.

## **XII. COVENANT NOT TO SUE BY THE STATE**

30. In consideration of the payments that will be made under the terms of this Consent Order and except as specifically provided in Section XIII, the State covenants not to sue or take administrative action against such Option A Respondents pursuant to Sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) or 9607(a), or the California Hazardous Substances Account Act, California Health and Safety Code Section 25300, et seq., relating to the Site. With respect to present and future liability, this covenant not to sue shall take effect for each Option A Respondent upon receipt of that Option A Respondent's payment as required by Section VIII.

With Respect to each Option A Respondent, individually, this covenant not to sue is conditioned upon:

a. the satisfactory performance by that Option A Respondent of its obligations under this Consent Order; and

b. the veracity of the information provided to EPA by Option A Respondent relating to that Option A Respondent's involvement with the Site. This covenant not to sue extends only to Option A Respondents and does not extend to any other person.

### **XIII. RESERVATIONS OF RIGHTS BY UNITED STATES AND THE STATE**

31. The United States and the State reserve, and this Consent Order is without prejudice to, all rights against Respondents with respect to all matters not expressly included within the Covenant Not to Sue by United States in Section XI and the State in Section XII. Notwithstanding any other provision of this Consent Order, the United States and the State reserve all rights against Respondents with respect to:

a. liability for failure to meet a requirement of this Consent Order;

b. criminal liability;

c. with respect to Option B Respondents, liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments; or

d. liability based upon the ownership or operation of the Site, or upon the transportation, treatment, storage, or disposal of hazardous substances or solid waste, or the arrangement for the transportation, treatment, storage, or disposal of a hazardous substance or solid waste at or in connection with the Site, after signature of this Consent Order by Respondents.

32. Notwithstanding any provision in this Consent Order, the United States and the State reserve, and this Consent Order is without prejudice to, the right to institute judicial or administrative proceedings against any individual Respondent seeking to compel that Respondent to perform response actions relating to the Site, and/or to reimburse the United States or the State for additional costs of response if information is discovered which indicates Respondent contributed hazardous substances to the Site in such greater amount or of such greater toxic or other hazardous effects that such Respondent no longer qualifies as a *de minimis* party at the Site because Respondent contributed greater than 10 tons of hazardous substances at the Site, or contributed hazardous substances which are significantly more toxic or are of significantly greater hazardous effect than other hazardous substances at the Site.

33. Notwithstanding any other provision of this Consent Order, EPA and the State reserve, and this Agreement is without prejudice to, the right to reinstitute or reopen this action, or to commence a new action seeking relief other than as provided in this Agreement, if the financial information provided by ATP Respondents, or the financial certification made by ATP Respondents in Paragraph 26, is false or, in a material respect, inaccurate.

**XIV. COVENANTS NOT TO SUE BY RESPONDENTS**

34. Respondents covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, or the State with respect to the Site or this Consent Order, including, but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claims arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Constitution of the State of California, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; and

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Site.

35. Except as provided in Paragraph 37 (Waiver of Claims) and Paragraph 39 (Waiver of Claim-Splitting Defenses), these covenants not to sue shall not apply in the event the United States or the State brings a cause of action or issues an order pursuant to the reservations set forth in Paragraph 31(c) or (d) or Paragraphs 32 and 33, but only to the extent that Respondent's claims arise from the same response action, response costs, or damages that the United States or the State is seeking pursuant to the applicable reservation.

36. Nothing in this Consent Order shall be deemed to constitute preauthorization or approval of a claim within the meaning of Sections 111 or 112 of CERCLA, 42 U.S.C. §§ 9611 and 9612, or 40 C.F.R. § 300.700(d).

37. Respondents agree not to assert any claims or causes of action (including claims for contribution under CERCLA) that they may have for all matters to the Site against each other or any other person which is a potentially responsible party under CERCLA at the Site. This waiver shall not apply with respect to any defense, claim, or cause of action that a Respondent may have against any person if such person asserts or has asserted a claim or cause of action relating to the Site against such Respondent.



**XV. EFFECT OF SETTLEMENT / CONTRIBUTION PROTECTION**

38. Except as provided in Paragraph 37 (Waiver of Claims), nothing in this Consent Order shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Order. Except as provided in Paragraph 37 (Waiver of Claims), the United States, the State and the Respondents each reserve any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which each party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a party hereto.

39. In any subsequent administrative or judicial proceeding initiated by the United States or the State for injunctive relief, recovery of response costs, or other relief relating to the Site, the Respondents shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant action; provided, however, that nothing in this Paragraph affects the enforceability of the covenants not to sue included in Paragraph 34.

40. The Parties agree that each Respondent is entitled, as of the effective date of this Consent Order, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(g)(5) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(g)(5), for "matters addressed" in this Consent Order. For Option A Respondents, the "matters addressed" in this Consent Order are all response actions taken or to be taken and all response costs incurred or to be incurred, at or in connection with the Site, by the United States, the State or any other person under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607. For Option B Respondents, the "matters addressed" in this Consent Order are all response actions taken or to be taken and all response costs incurred or to be incurred, at or in connection with the Site, by the United States, or any other person under Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a).

**XVI. PARTIES BOUND**

41. This Consent Order shall apply to and be binding upon the United States, the State and upon the Respondents and their heirs, successors and assigns. Any change in ownership, political configuration, or corporate or other legal status of a Respondent, including, but not limited to, any transfer of assets or real or personal property, shall in no way alter such Respondent's responsibilities under this Consent Order. Each signatory to this Consent Order certifies that he or she is authorized to enter into the terms and conditions of this Consent Order and to execute and to legally bind the party represented by him or her.

**XVII. INTEGRATION/APPENDICES**

42. This Consent Order and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Order. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Order. The following appendices are attached to and incorporated into this Consent Order:

"Appendix A," entitled "Option A Respondents," is the alphabetical list of Option A Respondents to this Consent Order, including ATP Respondents, and their payment schedule.

"Appendix B," entitled "Option B Respondents," is the alphabetical list of Option B Respondents to this Consent Order and their payment schedule.

"Appendix C," entitled "Omega Chemical Superfund Site Map," is a map of the Site.

**XVIII. PUBLIC COMMENT**

43. This Consent Order shall be subject to a public comment period of not less than thirty (30) days pursuant to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i). In accordance with Section 122(i)(3) of CERCLA, 42 U.S.C. § 9622(i)(3), the EPA may withdraw or withhold its consent to this Consent Order if comments received disclose facts or considerations which indicate that this Consent Order is inappropriate, improper or inadequate.

**XIX. ATTORNEY GENERAL APPROVAL**

44. The United States Attorney General or his designee has approved the settlement embodied in this Consent Order in accordance with Section 122(g)(4) of CERCLA, 42 U.S.C. § 9622(g)(4).

**XX. EFFECTIVE DATE**

45. The effective date of this Consent Order shall be the date upon which EPA issues written notice to Respondents that the public comment period pursuant to Section XVIII has closed and that comments received, if any, do not require modification of or EPA withdrawal from this Consent Order.

//

IT IS SO AGREED AND ORDERED:

By:

Keith Takata

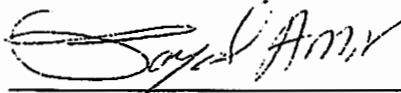
Keith Takata  
U.S. Environmental Protection Agency  
Director, Superfund Division  
Region IX, EPA

9-1-05

Date

IT IS SO AGREED AND ORDERED:

By:



Sayareh Amirebrahimi  
The State of California  
California Environmental Protection Agency  
Department of Toxic Substances Control

7/21/05

Date

**Your company or organization's Signature Page will be inserted here.**

## **APPENDICES**



**Appendix A  
Option A Respondents**

<b>Settling Party</b>	<b>Volume (tons)</b>	<b>EPA Payment Amount (\$)</b>	<b>DTSC Payment Amount (\$)</b>	<b>Total Payment Amount (\$)</b>
Advanced Cardiovascular Systems, Inc.	5.9631	\$71,249.89	\$308.11	\$71,558.00
Allan Hancock College	3.1340	\$37,446.07	\$161.93	\$37,608.00
Allergan, Inc.	7.1694	\$85,663.56	\$370.44	\$86,034.00
ALPS Electric (North America), Inc.	4.8164	\$57,549.14	\$248.86	\$57,798.00
Amada Mfg America Inc.	4.1700	\$49,825.54	\$215.46	\$50,041.00
Aristech Chemical Corporation	4.2500	\$50,781.40	\$219.60	\$51,001.00
Arnold Construction Co.	3.5445	\$42,351.86	\$183.14	\$42,535.00
Arrow Electronics, Inc.	4.6913	\$56,054.60	\$242.40	\$56,297.00
Ashland, Inc.	3.6696	\$43,846.39	\$189.61	\$44,036.00
Automotive Caliper Exchange Incorporated	8.6528	\$103,388.91	\$447.09	\$103,836.00
B. Braun Medical Inc.	3.1935	\$38,157.99	\$165.01	\$38,323.00
BAE Systems Integrated Defense Solutions Inc.	6.9222	\$82,710.33	\$357.67	\$83,068.00
Baker-Bradford Holdings	4.1283	\$51,934.69	\$213.31	\$52,148.00
Beckman Coulter, Inc. dba Beckman Instruments, Inc.	8.3959	\$105,623.18	\$433.82	\$106,057.00
BI Technologies Corporation	9.4034	\$112,357.13	\$485.87	\$112,843.00
Big Three Industries, Inc.	7.1307	\$85,202.56	\$368.44	\$85,571.00
Bryant Die Cast Co.	3.8781	\$46,337.62	\$200.38	\$46,538.00
Cal Energy Operating Corporation	7.8188	\$98,363.00	\$404.00	\$98,767.00
California Chassis, Inc.	7.0682	\$88,919.79	\$365.21	\$89,285.00
California State University, Long Beach	4.1492	\$49,576.61	\$214.39	\$49,791.00
California State University, Los Angeles	3.0085	\$35,946.55	\$155.45	\$36,102.00
Calpap VI, Inc.	5.2751	\$63,030.44	\$272.56	\$63,303.00
CBS Broadcasting, Inc.	3.4403	\$41,106.24	\$177.76	\$41,284.00
Cedars-Sinai Medical Center	3.8990	\$46,587.54	\$201.46	\$46,789.00
Certance LLC	5.3333	\$63,725.43	\$275.57	\$64,001.00
Channel Industries, Inc.	9.6119	\$120,920.35	\$496.65	\$121,417.00

**Appendix A  
Option A Respondents**

<b>Settling Party</b>	<b>Volume (tons)</b>	<b>EPA Payment Amount (\$)</b>	<b>DTSC Payment Amount (\$)</b>	<b>Total Payment Amount (\$)</b>
Childrens Hospital Los Angeles	3.6696	\$46,164.39	\$189.61	\$46,354.00
City of Long Beach, California	9.9842	\$119,297.12	\$515.88	\$119,813.00
City of Los Angeles, California	8.9046	\$106,394.90	\$460.10	\$106,855.00
Cleator Corporation	7.1099	\$84,953.63	\$367.37	\$85,321.00
Clopay Corporation	5.3168	\$63,527.28	\$274.72	\$63,802.00
CNF Inc.	5.2407	\$62,619.21	\$270.79	\$62,890.00
Codeline Corporation	9.7787	\$116,841.73	\$505.27	\$117,347.00
Combustion Engineering, Inc.	3.4085	\$40,725.88	\$176.12	\$40,902.00
ConocoPhillips Company	3.0679	\$36,656.48	\$158.52	\$36,815.00
Consolidated Metco, Inc.	4.2750	\$51,079.11	\$220.89	\$51,300.00
Continental Heat Treating, Inc.	7.2558	\$86,697.09	\$374.91	\$87,072.00
Cosco Industries, Inc.	8.7362	\$104,385.60	\$451.40	\$104,837.00
County of Mohave, Arizona	6.1299	\$73,243.27	\$316.73	\$73,560.00
County of Orange, California	5.4419	\$65,021.82	\$281.18	\$65,303.00
County of San Luis Obispo, California	3.0024	\$35,873.87	\$155.13	\$36,029.00
Crown Coach, Inc.	3.6696	\$43,846.39	\$189.61	\$44,036.00
CTS Corporation	5.0457	\$60,289.29	\$260.71	\$60,550.00
Cubic Communications, Inc.	3.7996	\$45,399.67	\$196.33	\$45,596.00
Cypress College	4.1478	\$49,560.68	\$214.32	\$49,775.00
Daico Industries, Inc.	4.0935	\$48,911.49	\$211.51	\$49,123.00
Data Label Products, Inc.	3.2179	\$38,448.73	\$166.27	\$38,615.00
Del Mar Analytical, Inc.	3.2484	\$38,813.16	\$167.84	\$38,981.00
DENSO Sales California, Inc.	4.4411	\$53,064.53	\$229.47	\$53,294.00
Derby Holdings Ltd.	9.2574	\$110,613.67	\$478.33	\$111,092.00
Deringer-Ney, Inc.	5.7338	\$72,132.73	\$296.27	\$72,429.00
Dixco Diversified Chemical Sales	3.2109	\$38,366.09	\$165.91	\$38,532.00

**Appendix A**  
**Option A Respondents**

<b>Settling Party</b>	<b>Volume (tons)</b>	<b>EPA Payment Amount (\$)</b>	<b>DTSC Payment Amount (\$)</b>	<b>Total Payment Amount (\$)</b>
DKC Holdings, Inc.	5.3093	\$66,792.67	\$274.33	\$67,067.00
Dunn-Edwards Corporation	3.4403	\$41,106.24	\$177.76	\$41,284.00
Dynair, Inc.	3.0483	\$36,422.49	\$157.51	\$36,580.00
E.I. Du Pont De Nemours and Company	4.9623	\$59,291.60	\$256.40	\$59,548.00
Eagle Marine Services, Ltd.	3.0140	\$36,012.27	\$155.73	\$36,168.00
Earl Scheib Paint & Supply Co.	3.5862	\$42,849.70	\$185.30	\$43,035.00
Essef Corporation	3.0858	\$36,870.56	\$159.44	\$37,030.00
Essilor Optical, Inc.	3.1856	\$38,063.40	\$164.60	\$38,228.00
Eurotherm Controls, Inc.	7.1099	\$84,953.63	\$367.37	\$85,321.00
Exxon Mobil Corporation	6.1289	\$73,232.32	\$316.68	\$73,549.00
Fischbach, LLC/FBCO, Inc. f/k/a Natkin Service Company	5.6566	\$67,588.72	\$292.28	\$67,881.00
Fleet Aerospace, Inc.	3.2810	\$39,202.47	\$169.53	\$39,372.00
Fleetwood Motor Homes of California, Inc.	7.7979	\$98,100.08	\$402.92	\$98,503.00
Frawley Corporation	7.7979	\$93,174.08	\$402.92	\$93,577.00
Frazee Industries, Inc.	7.3601	\$87,942.70	\$380.30	\$88,323.00
General Atomics	5.8150	\$73,154.54	\$300.46	\$73,455.00
General Ribbon Corp.	4.3577	\$54,820.84	\$225.16	\$55,046.00
Genko, Inc.	3.4403	\$41,106.24	\$177.76	\$41,284.00
Georges & Shapiro Lithograph, Inc.	4.9415	\$59,043.67	\$255.33	\$59,299.00
Gilbert Industrial Corporation	6.8805	\$82,212.48	\$355.52	\$82,568.00
Glendale Adventist Medical Center	3.3184	\$39,650.54	\$171.46	\$39,822.00
GTE Communications System Corporation f/k/a GTE Network Systems	7.1933	\$85,949.32	\$371.68	\$86,321.00
Hamby Corporation	3.2526	\$38,862.94	\$168.06	\$39,031.00
Hamilton Sundstrand Corporation	3.5118	\$41,960.55	\$181.45	\$42,142.00
Harmon Industries, Inc.	5.8862	\$70,331.86	\$304.14	\$70,636.00
Hermetic Seal Corporation	4.7872	\$57,199.65	\$247.35	\$57,447.00

**Appendix A  
Option A Respondents**

<b>Settling Party</b>	<b>Volume (tons)</b>	<b>EPA Payment Amount (\$)</b>	<b>DTSC Payment Amount (\$)</b>	<b>Total Payment Amount (\$)</b>
Hewlett-Packard Company	4.5870	\$54,806.99	\$237.01	\$55,044.00
Holly Sugar Corporation	4.5000	\$56,611.48	\$232.52	\$56,844.00
IDG USA, LLC	3.2109	\$38,366.09	\$165.91	\$38,532.00
Illinois Tool Works, Inc.	5.7546	\$72,394.66	\$297.34	\$72,692.00
Image Transform, Inc.	4.5787	\$54,709.42	\$236.58	\$54,946.00
Industrial Property Management	4.0783	\$51,306.27	\$210.73	\$51,517.00
In-Terminal Services Corporation	3.6000	\$43,014.99	\$186.01	\$43,201.00
International Business Machines Corporation	3.0000	\$35,845.99	\$155.01	\$36,001.00
J.C. Penney Corporation, Inc.	6.0466	\$72,248.57	\$312.43	\$72,561.00
Jacuzzi Whirlpool Bath, Inc.	3.6695	\$43,845.40	\$189.60	\$44,035.00
Jafra Cosmetics International, Inc.	7.5447	\$94,914.17	\$389.83	\$95,304.00
JBL Incorporated	6.5664	\$78,458.71	\$339.29	\$78,798.00
Kern High School District	6.4785	\$77,409.26	\$334.74	\$77,744.00
K-Tube Corporation	4.3994	\$52,566.68	\$227.32	\$52,794.00
Kyowa America Corporation	6.2751	\$74,978.77	\$324.23	\$75,303.00
Ladder Industries	4.3577	\$54,820.84	\$225.16	\$55,046.00
Litronic Industries, Inc.	8.5485	\$107,542.30	\$441.70	\$107,984.00
Lockheed Martin Corporation	7.4409	\$88,907.53	\$384.47	\$89,292.00
Lockheed Martin Electro-Optical Systems, Inc.	6.6512	\$83,673.33	\$343.67	\$84,017.00
Loyola Marymount University	4.1909	\$50,075.46	\$216.54	\$50,292.00
Macerich Property Management Company, LLC	4.9623	\$62,426.60	\$256.40	\$62,683.00
Matthews International Corporation	8.1200	\$102,151.44	\$419.56	\$102,571.00
Merle Norman Cosmetics, Inc.	5.1223	\$61,203.33	\$264.67	\$61,468.00
Mighty Mover Trailers, Inc.	3.1097	\$39,120.32	\$160.68	\$39,281.00
Moore Wallace North America, Inc.	3.2526	\$38,862.94	\$168.06	\$39,031.00
National Steel and Shipbuilding Company	7.2975	\$87,194.94	\$377.06	\$87,572.00

# **Appendix A** **Option A Respondents**

<b>Settling Party</b>	<b>Volume (tons)</b>	<b>EPA Payment Amount (\$)</b>	<b>DTSC Payment Amount (\$)</b>	<b>Total Payment Amount (\$)</b>
Navcom Defense Electronics, Inc.	8.9447	\$106,875.83	\$462.17	\$107,338.00
Nobel Biocare USA, Inc.	6.2717	\$74,937.94	\$324.06	\$75,262.00
Oakite Products, Inc.	6.4427	\$81,051.11	\$332.89	\$81,384.00
Ontario-Montclair School District	4.8372	\$57,797.06	\$249.94	\$58,047.00
Pall Filtration and Separations Group Inc.	3.3710	\$40,277.82	\$174.18	\$40,452.00
PerfectData Corporation	3.2109	\$38,366.09	\$165.91	\$38,532.00
Perkinelmer, Inc.	3.1464	\$39,582.43	\$162.57	\$39,745.00
Philips Electronics North America Corporation	6.8805	\$82,212.48	\$355.52	\$82,568.00
Premier Refractories, Inc.	3.3275	\$41,860.07	\$171.93	\$42,032.00
Primus Group, Inc.	6.7346	\$80,469.02	\$347.98	\$80,817.00
Rand McNally & Company	5.4836	\$65,520.66	\$283.34	\$65,804.00
Rantec Power Systems Inc.	4.2367	\$50,622.09	\$218.91	\$50,841.00
Rexam Beverage Can Company	3.2109	\$38,366.09	\$165.91	\$38,532.00
Ricoh Electronics, Inc.	5.8130	\$69,456.64	\$300.36	\$69,757.00
San Diego Unified School District	3.3569	\$40,108.55	\$173.45	\$40,282.00
San Joaquin Refining Co., Inc.	5.8380	\$73,443.35	\$301.65	\$73,745.00
Santa Monica Hotel Associates, LLC	5.2959	\$63,278.36	\$273.64	\$63,552.00
Senior Operations, Inc.	4.1492	\$49,576.61	\$214.39	\$49,791.00
Sharpe Manufacturing Co.	8.0273	\$95,915.23	\$414.77	\$96,330.00
Shell Solar Industries, L.P.	9.4805	\$113,279.14	\$489.86	\$113,769.00
Shibuya International, Inc.	5.3342	\$63,735.38	\$275.62	\$64,011.00
Shield Packaging of California, Inc.	8.1315	\$97,160.85	\$420.15	\$97,581.00
Shop Vac Corporation	4.1658	\$49,774.75	\$215.25	\$49,990.00
Simpson Strong-Tie Company Inc.	7.1099	\$84,953.63	\$367.37	\$85,321.00
Six Flags Theme Parks Inc.	4.5870	\$54,806.99	\$237.01	\$55,044.00
SMCO, LP	3.7180	\$44,423.89	\$192.11	\$44,616.00

**Appendix A  
Option A Respondents**

<b>Settling Party</b>	<b>Volume (tons)</b>	<b>EPA Payment Amount (\$)</b>	<b>DTSC Payment Amount (\$)</b>	<b>Total Payment Amount (\$)</b>
Solelectron Corporation	5.2751	\$63,030.44	\$272.56	\$63,303.00
Southwestern Industries, Inc.	3.8156	\$45,590.85	\$197.15	\$45,788.00
Square D Company	3.0564	\$38,450.08	\$157.92	\$38,608.00
Tec Color Craft	5.1291	\$64,524.98	\$265.02	\$64,790.00
The Aerospace Corporation	7.5751	\$90,511.59	\$391.41	\$90,903.00
The Alpha Corporation of Tennessee	3.2943	\$41,442.78	\$170.22	\$41,613.00
The Glidden Company	7.7354	\$92,427.31	\$399.69	\$92,827.00
The Okonite Company	4.3410	\$54,610.70	\$224.30	\$54,835.00
The Valspar Corporation	3.2109	\$38,366.09	\$165.91	\$38,532.00
Thums Long Beach Company	5.0249	\$60,040.36	\$259.64	\$60,300.00
TransAmerica Occidental Life Insurance Company	4.1700	\$49,825.54	\$215.46	\$50,041.00
Tregen Corp. Inc.	3.5012	\$41,834.09	\$180.91	\$42,015.00
U.S. Foodservice, Inc.	3.9218	\$46,860.36	\$202.64	\$47,063.00
Valley Plating Works, Inc.	5.7963	\$72,918.51	\$299.49	\$73,218.00
Ventura Regional Sanitation District	8.2979	\$99,149.25	\$428.75	\$99,578.00
Vertis, Inc.	4.1075	\$49,077.77	\$212.23	\$49,290.00
Viracon, Inc.	5.0604	\$60,463.53	\$261.47	\$60,725.00
Vista Ford	3.8573	\$48,525.69	\$199.31	\$48,725.00
Wells Fargo Bank	3.1522	\$37,664.13	\$162.87	\$37,827.00
Williams Furnace Co.	9.4451	\$112,855.97	\$488.03	\$113,344.00
Xerox Corporation	6.0293	\$75,849.47	\$311.53	\$76,161.00
York International Corporation	5.2600	\$62,849.22	\$271.78	\$63,121.00
Zimmer Dental Inc.	4.2117	\$50,323.38	\$217.62	\$50,541.00



## Appendix A-1 Option A Respondents

Settling Party	Volume (tons)	EPA Payment Amount (\$)	DTSC Payment Amount (\$)	Total Payment Amount (\$)
All-Star Print, Inc.	4.3165	\$248.98	\$1.02	\$250.00
International Label & Tape Co.	6.5350	\$248.98	\$1.02	\$250.00
Northern California Labels, Inc.	4.8606	\$13,942.74	\$57.26	\$14,000.00
Pasminco Incorporated	5.9623	\$1,493.86	\$6.14	\$1,500.00
Permalite Plastics Corporation <sup>1</sup>	7.0723	\$12,946.83	\$53.17	\$13,000.00
Photo Fabricators, Inc. <sup>2</sup>	7.6896	\$23,901.84	\$98.16	\$24,000.00
Porcelain Metals Corporation <sup>3</sup>	3.2109	\$6,014.30	\$24.70	\$6,039.00
Precision Anodizing, Inc.	8.9447	\$1,493.86	\$6.14	\$1,500.00
Precision Tag & Label Corporation <sup>4</sup>	7.5139	\$9,959.10	\$40.90	\$10,000.00
Print Sales, Inc.	7.2717	\$4,979.55	\$20.45	\$5,000.00
S & H Cabinets and Manufacturing, Inc.	3.0853	\$11,950.92	\$49.08	\$12,000.00
The Signs and Services Company	3.0858	\$3,983.64	\$16.36	\$4,000.00
Wm. J. Matson Company	3.3986	\$4,979.55	\$20.45	\$5,000.00

<sup>1</sup> The EPA Payment shall be paid in full within thirty (30) days of the later of either: (i) the effective date of this Consent Order; or (ii) November 1, 2005. The DTSC Payment shall be paid within thirty (30) days of the effective date of this Consent Order.

<sup>2</sup> The EPA Payment shall be paid in 24 equal monthly payments of \$1019.00 per month commencing 30 days after the effective date of this Consent Order. The DTSC Payment shall be paid in full within 30 days of the effective date of this Consent Order.

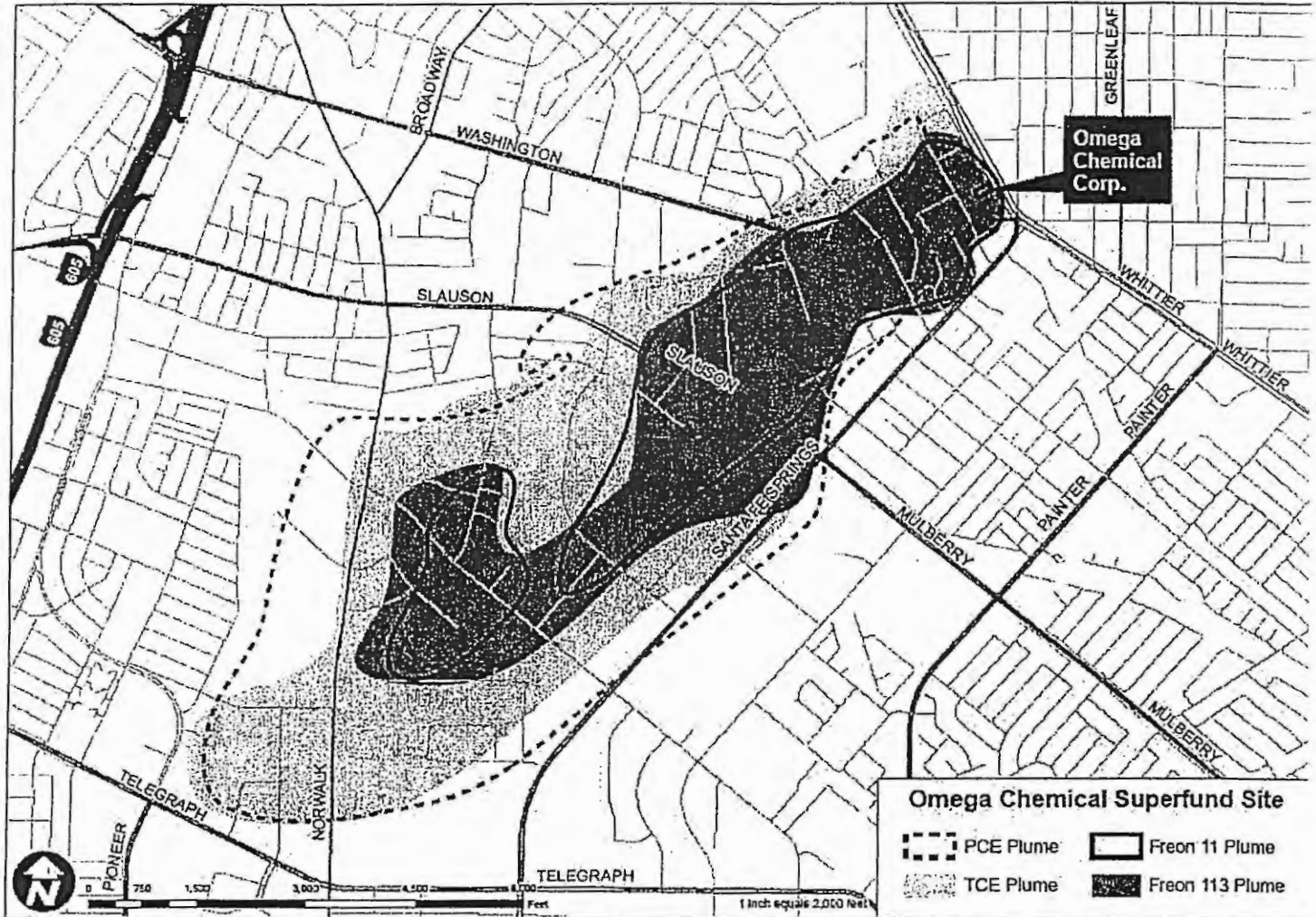
<sup>3</sup> The EPA Payment shall be paid in full within thirty (30) days of the later of either: (i) the effective date of this Consent Order; or (ii) October 1, 2005. The DTSC Payment shall be paid within thirty (30) days of the effective date of this Consent Order.

<sup>4</sup> The EPA Payment shall be paid in 12 equal monthly payments of \$839.90 per month commencing 30 days after the effective date of this Consent Order. The DTSC Payment shall be paid within thirty (30) days of the effective date of this Consent Order.

**Appendix B  
Option B Respondents**

<b>Settling Party</b>	<b>Volume (tons)</b>	<b>Total Payment Amount (\$)</b>
Carrier Corporation	9.5266	\$92,198.00
Friction Inc.	5.8969	\$54,216.00
Long Beach Unified School District	8.2186	\$75,562.00
Oxnard Union High School District	3.6696	\$33,739.00
Thomas CNC Machining	6.0382	\$55,515.00

Appendix C  
Omega Chemical Superfund Site



## Notice of Payment to EPA

Liabe Company Name: Continental Heat Treating, Inc.

EPA Payment Amount: \$ 86,697.09

**For Checks:**

docket # 2004-13  
Omega Chemical superfund  
EPA Region 9  
Site spill ID 09BC

Date of check 1/09/2006

Amount \$ 86,697.09

Check # 060192519 (attach copy of check)

**For Wire Transfers:**

Date of wire transfer \_\_\_\_\_

Amount \$ \_\_\_\_\_ (attach copy of wire transfer documents)

**Mail this form and copies of check/wire transfer documents to:**

Omega Chemical Site Team  
c/o Linda Ketellapper  
EPA Region 9  
75 Hawthorne Street  
Mail Code SFD-7-B  
San Francisco, California 94105  
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to settle their potential liability subject to limited releases and with a 50% premium on future costs (Option B). In the proposed Consent Order, 153 *de minimis* parties accepted the Agency's Option A terms for settlement and five *de minimis* parties accepted the Agency's Option B terms for settlement. Following EPA's Ability to Pay guidance, an additional thirteen *de minimis* parties settled with the Agency for an amount which each party has the ability to pay. In total, the proposed Consent Order will resolve the potential liability of 171 *de minimis* parties at the Site. Funds derived from the settlement for future work at the Site total \$10,189,384.00.

On July 21, 2005, DTSC signed the Consent Order. Thereafter, the United States Department of Justice ("DOJ") gave its prior written approval of the Consent Order on August 9, 2005, pursuant to CERCLA Section 122(g)(4), 42 U.S.C. § 9622(g)(4). On September 1, 2005, EPA signed the Consent Order. Finalization of the agreement is subject to a 30-day public comment period. Section XVIII of the Consent Order provides that after review of the public comments, EPA may modify or withdraw its consent to the Consent Order if comments received disclose facts or considerations which indicate that the agreement is inappropriate, improper or inadequate.

Notice of the Consent Order was published in the Federal Register (70 FR 54380) on September 14, 2005. The public comment period commenced on September 14, 2005 and ran through October 14, 2005. During this comment period EPA received public comments from OPOG. EPA has reviewed and considered the comments submitted and has determined that the proposed Consent Order provides a substantial benefit to EPA and is in the public's interest. EPA's responses are provided hereinafter.

Comment One

The Consent Order Bars Contribution Even If The Settling Party Does Not Pay.

OPOG contends that cooperating parties performing work at the Site should be assured that settling potentially responsible parties (PRPs) pay their fair share at the Site. It also contends that the Consent Order should be amended to provide that the contribution protection does not take effect until payment is received from settling *de minimis* parties. EPA does not believe OPOG's concern warrants any change to the agreement.

Under the terms of the Consent Order, contribution protection is extended to settling parties at the time that the Consent Order is effective, which is the date that EPA issues written notice that the public comment period has closed. Payment is then due in 30 days. It is appropriate that Settlers have the security of contribution protection as of the effective date of the Consent Order so that they will not continue to be at risk of being sued in contribution pending completion of their settlement obligations. The Consent Order contains a number of provisions designed to ensure that the Settlers in fact pay. The Consent Order provides that Respondents' failure to make timely payment entitles the government to interest and further provides that the government may bring an action to compel payment and/or seek civil penalties (AOC Para 24). Further, the United States' covenant not to sue, while effective upon payment, is conditioned upon the satisfactory performance by Respondents of their obligations under the AOC, and the United States'



reservations of rights clearly reserves liability for failure to meet requirements of the AOC. In the event of non-payment, EPA would take enforcement action as appropriate.

As such, EPA believes that the AOC as written provides adequate protections against OPOG's concern and, therefore, that no modification is needed.

Comment Two      The Funds Received From The Respondent Settling PRPs Must Be Used To Remediate The Omega Chemical Site Or Be Credited Against Oversight And Other Site Costs So As To Reduce EPA's Claims Against Other PRPs.

OPOG contends that the proposed Consent Order should be amended to require that recovered funds be used for future work at the Site or to be credited against oversight costs other PRPs are required to pay in separate work agreements with the Agency. Contrary to OPOG's contention, the proposed Consent Order does allow EPA to use funds recovered from the settlement for future work at the Site. However, the Agency will not be able to credit other PRPs for oversight costs for the reasons stated below.

Section 122(b)(3) of CERCLA authorizes EPA to retain and use funds received in a settlement to address CERCLA response actions contemplated in a settlement agreement. The statutory provision provides that:

"If, as part of any agreement, the President will be carrying out any action and the parties will be paying amounts to the President, the President may, notwithstanding any other provision of law, retain and use such amounts for purposes of carrying out the agreement."

42 U.S.C. §9622(b)(3). EPA retains these funds in site-specific accounts called "special accounts," which are subaccounts within the EPA Hazardous Substance Superfund ("Trust Fund"). EPA "Consolidated Guidance on the Establishment, Management and Use of CERCLA Special Accounts", Oct. 4, 2002 ("Special Account Guidance").

The language in the proposed Consent Order provides the Agency with the flexibility to disburse funds from a special account to any party, other than the one that gave EPA the funds, performing the response action at the Site or to use the funds to finance Trust Fund-lead responses at the Site. Special Account Guidance at 5-6. The special account may be maintained by EPA to be used on a site-specific basis as long as there is future work contemplated at the Site. Once response work has completed and all EPA expenditures at the site have been reimbursed, EPA will transfer the remaining special account funds to the Trust Fund. Special Account Guidance at 7.

Pursuant to Section VIII (Payment) of the Consent Order, monies paid by settling *de minimis* parties:

“shall be deposited by EPA in the Omega Chemical Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or be transferred by EPA to the EPA Hazardous Substance Superfund.”

Thus, funds deposited within the Omega Chemical Special Account may be used by EPA for future response activities at the Omega Chemical Site, or may be disbursed by EPA to any other party performing work at the Site, if such disbursement is specifically provided for under the terms of a settlement with EPA.

The existence of special account funds does not affect OPOG's pre-existing work and payment obligations under established settlements with EPA. However, because the funds derived from the proposed *de minimis* settlement will go into a special account for future work at the Site, OPOG and other PRPs at the Omega Site will immediately receive the benefit of this proposed settlement through a dollar for dollar reduction of their potential liability at the Site. At this time, special account funds are not available for disbursement to parties performing under previously negotiated work agreements with the Agency. However, EPA may consider this issue in future settlement discussions concerning performance of remedial action at the Site.

### Conclusion

This settlement is in the public interest. The Proposed Consent Order will contribute toward essential funding requirements for the Site, including the continuation of ongoing enforcement and remedial investigative work and implementation of a selected remedial action. In accordance with Agency policy, Methodology for Early *De Minimis* Waste Contributor Settlements under CERCLA Section 122(g)(1)(A), the proposed settlement also serves the public interest in providing smaller waste generators with the opportunity to resolve their liability and pay their fair share of response costs in an expedited fashion, minimizing their transaction costs. Finally, this settlement is very favorable to the government by preserving Trust Fund money for other sites where there are no viable PRPs.

EPA has considered and addressed OPOG's comments. However, these comments do not alter the Agency's belief that the proposed agreement is appropriate and will serve the public's interest in providing significant benefits to the Agency, the federal government and settling *de minimis* parties. Therefore, the Agency is not withdrawing or modifying the Consent Order and this agreement is final and effective as of the date of this Response to Comments, December 12, 2005.